

**CITY OF SAN JOSE AND CEO  
LAST, BEST, AND FINAL OFFER  
ALTERNATIVE A**

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**PERIOD OF MEMORANDUM OF AGREEMENT**

September 18, 2011 – September 15, 2012 (See attached)

**WAGES**

See attached

**HEALTHCARE COST SHARING**

See attached

**HEALTHCARE CO-PAYS**

See attached

**HEALTH AND DENTAL IN LIEU**

See attached

**HEALTHCARE DUAL COVERAGE**

See attached

**SICK LEAVE PAYOUT**

See attached

**DISABILITY LEAVE SUPPLEMENT**

See attached

**SALARY STEP STRUCTURE**

See attached

**OVERTIME CALCULATION**

See attached

**SUBSIDY FOR PUBLIC TRANSIT**

See attached

**SIDE LETTERS**

- Retirement Benefits for current and new employees (See attached)
- Layoff (See attached)
- Supplemental Retiree Benefit Reserve (SRBR) (See attached)

**PERIOD OF MEMORANDUM OF AGREEMENT**

Proposed CEO Language:

**ARTICLE 3 PERIOD OF MEMORANDUM OF AGREEMENT**

3.1 ~~This Agreement shall become effective September 21, 2008, except where otherwise provided, and shall remain in effect through September 17, 2011. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties. Fifty (50) copies of this Agreement, as originally executed, shall be printed for the Employee Organization. The costs of such printing shall be shared equally by the parties, unless the printing of such Agreements are reproduced utilizing City facilities, in which case the City shall bear the cost of such printing. The City will provide email notification to all CEO represented employees at the time a new successor Agreement is posted on the City's intranet.~~

3.2 ~~It is the mutual desire of the parties to conclude the meet and confer process as early as possible prior to the expiration of this Agreement. Therefore, it is agreed that the Employee Organization shall exert every reasonable effort to submit any proposed changes or additions to this Agreement on or before August 1, 2011. The City agrees to begin the meet and confer process as soon thereafter as is reasonably possible.~~

3.1 This Agreement shall become effective September 18, 2011, except where otherwise provided, and shall remain in effect through September 15, 2012. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

**CITY PROPOSAL – WAGES**

Proposed CEO Language:

7.1 Wages

~~7.1.1 Wages 2008-2009. Effective September 21, 2008, all salary ranges for employees holding positions in classifications assigned to CEO shall be increased by approximately 3.75%. The 2008-2009 salary ranges are listed in Exhibit I.~~

~~7.1.2 Wages 2009-2010. Effective September 20, 2009, all salary ranges for employees holding positions in classifications assigned to CEO shall be increased by approximately 1.50%. The 2009-2010 salary ranges are listed in Exhibit II.~~

~~7.1.3 Wages 2010-2011. Effective September 19, 2010, all salary ranges for employees holding positions in classifications assigned to CEO shall be increased by approximately 2.0%. The 2010-2011 salary ranges are listed in Exhibit III.~~

~~7.1.4 Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classification.~~

7.1.1 Effective September 18, 2011, all salary ranges for employees holding positions in classifications assigned to CEO (Union Code 100/101) shall be decreased by approximately 12.16%. This will result in the top and bottom of the range of all classifications represented by CEO being 12.16% lower. All employees will receive a 12.16% base pay reduction.

7.1.2 Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classification.

**CITY PROPOSAL – HEALTHCARE**

Proposed CEO Language:

7.6 Health Insurance

The City will provide health coverage for eligible full-time employees and their dependants in accordance with one of the available plans.

7.6.1 ~~The City will pay ninety percent (90%) of the full premium cost of the lowest priced plan for employee or for employee and dependent coverage. The employee will pay ten percent (10%) of the premium for the lowest priced plan up to a maximum of one hundred and fifty dollars (\$150) per month. If the employee contributed ten percent (10%) of the lowest priced plan exceeds one hundred and fifty dollars (\$150) per month, the City will pay the difference. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan. Effective pay date October 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employees and dependent coverage and the employee pays fifteen (15%) of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.~~

7.6.2 ~~Effective the beginning of pay period one (1) of payroll calendar year 2009, the City will pay ninety percent (90%) of the full premium cost of the lowest priced plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan for the employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.~~

~~7.6.3~~ 7.6.2 Effective January 1, 2009, co-pays for all available HMO plans shall be as follows: Effective pay date October 1, 2011, a \$25 Co-pay plan shall implemented for all HMO plans, including the following changes:

- a. Office visit Co-pay shall be increased to ~~\$10~~\$25
- b. Prescription Co-pay shall be increased to ~~\$5~~\$10 for generic and ~~\$10~~\$25 for brand name. ~~(The Blue Shield HMO will continue to include \$15 non-formulary drug co-pay.)~~
- c. Emergency Room Co-pay shall be increased to ~~\$50~~\$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

7.9 Payment-In-Lieu of Health and/or Dental Insurance Program

7.9.1 The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu.

~~7.9.2 Employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive fifty percent (50%) of the City's contribution toward his/her health and/or dental insurance at the lowest cost single or family plan if the employee is eligible for family coverage. The City will retain the remaining fifty percent (50%) of that contribution.~~

7.9.2 Effective pay date October 1, 2011, employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per pay period:

	<u>Health in-lieu</u>	<u>Dental in-lieu</u>
<u>If eligible for family coverage</u>	<u>\$221.84</u>	<u>\$19.95</u>
<u>If NOT eligible for family coverage</u>	<u>\$89.09</u>	<u>\$19.95</u>

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

7.9.3 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek or unpaid leave and have alternate group health and/or dental coverage. To qualify, an employee must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.

7.9.4 Enrollment in the payment-in-lieu of health and/or dental insurance program can only be done during the first thirty (30) days of employment, during the annual open enrollment period, or within thirty (30) days of a qualifying event as defined in the Human Resources Benefits Handbook, occurring anytime during the year. Employees who miss the thirty (30) day time limit after a qualifying event must wait until the next open enrollment period to enroll in payment-in-lieu of insurance programs. Enrollment in the payment-in-lieu of insurance program may be canceled by the employee only during the annual open enrollment period unless the employee loses alternate group coverage. Enrollment or cancellation during the open enrollment period will become effective the first pay period of the following calendar year.

- 7.9.5 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations: employment status changes from full to part time, employee is on an unpaid leave of absence, employee is on a reduced work week, or employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.
- 7.9.6 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period. To be eligible the employee must provide verification that alternate coverage has been lost.

**CITY PROPOSAL – SICK LEAVE PAYOUT**

Proposed Language:

Effective January 1, 2012, no employee shall be eligible for a sick leave payout.

*This language is intended to replace the language in:*

- *Article 18.2 of the CEO Memorandum of Agreement.*

**CITY PROPOSAL – DISABILITY LEAVE**

Proposed CEO Language:

**ARTICLE 19 DISABILITY LEAVE**

19.1 Disability Leave Supplement

Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Worker's Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary.

19.2 Eligibility for Disability Leave Supplement

A full-time employee who is required to be absent from work due to a job-related injury or industrial illness and who receives WCTD payments pursuant to Division I or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in section 19.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.

19.2.1 After the initial three (3)-day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Worker's Compensation Section. In no event may DLS exceed the limit specified in 19.6.

19.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability

If the Worker's Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the City must be returned to the City within one year.

19.4 Ineligible Causes for Disability Leave

An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from:

- 1) an act of gross negligence of such employee
- 2) any work voluntarily undertaken by employee from which he has been prohibited from engaging in as determined by a City physician, prior to the date of injury.



### 19.5 Ineligibility if Offer and Decline of Modified Duty

DLS shall not be provided if the City offers the employee employment at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he or she is physically qualified.

### 19.6 Maximum Term of Disability Leave Supplement

The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals 85% of what the employee would have earned at the position from which he or she is disabled for one of the following time periods, whichever is shortest:

- 1) the time the employee is medically required to be absent due to a work-related injury or illness, after the required three-day waiting period.
- 2) the period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.
- 3) Effective September 18, 2011, an employee will be eligible to receive DLS for a maximum of three (3) months (or 520 hours if not continually absent) for any current or future work-related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of September 18, 2011 will no longer be eligible to receive DLS. Nine (9) calendar months (274 days or 1,560 hours if not continually absent) following the date of injury.

#### 19.6.1 Time Limit for DLS Eligibility

Effective September 18, 2011, after 520 After ~~1,560~~ hours of DLS, the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS five (5) years after the date of the onset of the injury or illness for which he or she is claiming DLS.

### 19.7 Disability Leave Supplement is in Lieu of Regular Compensation

Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.

### 19.8 Requirement of Evidence Proving Temporary Disability

The Director of Human Resources or designee is responsible for determining eligibility for DLS. In making this determination, the Director or designee may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director or designee. The Director or designee may require the employee to submit to a medical examination by a physician selected by the City.

### 19.9 Termination of Disability Leave

An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of Sick Leave as provided in Article 18.1.2.3, and of accrued vacation, and compensatory time off, with Workers' Compensation may be separated from City service. In making this determination, the City shall consider the employee's anticipated date of return to work and the operational impact of the extended absence.

19.10 Integration. After the maximum time limit specified in Article 19.6, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, (2) earned Compensatory Time once Vacation has been exhausted, and (3) accrued Sick Leave once Vacation and Compensatory Time have both been exhausted.

- In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

**CITY PROPOSAL – SALARY STEP STRUCTURE**

Proposed Language:

Salary Steps

Effective September 18, 2011, the salary steps for all classifications represented by CEO will change from approximately 5% between each step to approximately 2.5%. This will result in an increase in the number of steps in the pay range.

*This language shall be added as:*

- *Article 7.1.3 of the CEO Memorandum of Agreement*

**CITY PROPOSAL – OVERTIME CALCULATION**

Proposed Language:

Hours assigned and worked in excess of forty (40) hours per week shall be compensated by overtime pay or compensatory time at 1.5 times the hourly rate for the number of overtime hours worked. Paid time off shall not be considered time worked for the purpose of calculating eligibility for overtime.

*This language is intended to replace the language in:*

- *Article 6.7 of the CEO Memorandum of Agreement.*

*With this proposal, Article 6.10 of the CEO Memorandum of Agreement shall be eliminated.*

**CITY PROPOSAL – PUBLIC TRANSIT SUBSIDY (ECO-PASS AND SUBSIDIZED  
COMMUTER CHECK VOUCHER PROGRAM)**

**ECO-Pass**

*After calendar year 2011, the City will no longer provide employees an ECO-Pass. This means that any employee in possession of a 2011 ECO-Pass provided by the City may continue its use through calendar year 2011. Beginning calendar year 2012, the City will cease providing an ECO-Pass.*

**Commuter Check Program**

*Upon exhaustion of the current supply of Commuter Check Vouchers, the Vouchers will no longer be available to employees for purchase from the City. This means that the subsidized Commuter Check Voucher Program is eliminated after the current supply of Commuter Check Vouchers are exhausted.*

## **Side Letter Agreement**

BETWEEN

THE CITY OF SAN JOSE

and

Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO)

### **RETIREMENT REFORM**

The City and Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO) agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees, including but not limited to healthcare benefits. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.

Either the City or CEO may provide notice to the other of its request to continue to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or CEO receives notice from the other. The City and CEO shall continue to meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. In such event, neither party waives any legal rights including the Union's nor any member's right to assert that certain benefits are vested.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and CEO.

FOR THE CITY:

FOR CEO:

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Gina Donnelly  
Office of Employee Relations

Date

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LaVerne Washington  
Confidential Employees' Organization,  
Local 101, AFSCME, AFL-CIO (CEO)

Date

**Side Letter Agreement**

BETWEEN

THE CITY OF SAN JOSE

and

Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO)

**LAYOFF**

The City and the Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure, including the provisions of the Layoff article in the Memorandum of Agreement. Upon such notice, the parties shall meet within ten (10) calendar days after the City or CEO receives notice from the other. The City and CEO shall meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR CEO:

\_\_\_\_\_  
Gina Donnelly Date  
Office of Employee Relations

\_\_\_\_\_  
LaVerne Washington Date  
Confidential Employees' Organization,  
Local 101, AFSCME, AFL-CIO (CEO)

## Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO)

### **SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)**

The City and the Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or CEO may provide notice to the other of its request to discuss the SRBR program. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or CEO receives notice from the other.

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and CEO shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. In such event, neither party waives any legal rights including the Union's nor any member's right to assert that certain benefits are vested.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR CEO:

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Gina Donnelly  
Office of Employee Relations

Date

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LaVerne Washington  
Confidential Employees' Organization,  
Local 101, AFSCME, AFL-CIO (CEO)

Date